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Attorney Docket No. 2002B141/2

OCT 02 2006

Double Patenting

Claims 1-29 and 31-35 were rejected, and provisionally rejected, under the judicially created doctrine of obviousness-type double patenting, over the claims of each of the following:

Copending U.S. Patent Application No. 10/962,312 (now granted as U.S. Patent No. 7,015,283);
U.S. Patent No. 6,288,171;
Copending U.S. Patent Application No. 10/688,091;
Copending U.S. Patent Application No. 10/896,549 (now granted as U.S. Patent No. 7,105,603);
U.S. Patent No. 6,639,020;
U.S. Patent No. 6,750,284;
U.S. Patent No. 6,867,260; and
U.S. Patent No. 6,916,882.

Applicants submit herewith terminal disclaimers over all of the above except No. 10/896,549, now U.S. Patent No. 7,105,603, along with the requisite fee. The excepted application was covered in the terminal disclaimer submitted in the prior response, already in the file of this application. Applicants respectfully request that the rejection be withdrawn.

35 USC 102(b) and (e) Rejections

Claims 1-29 and 31-35 were rejected as allegedly anticipated by each of the following:

Datta et al. WO 00/01766 ("Datta A");
Finerman et al. US 6,288,171 ("Finerman");
Brant US 6,639,020 ("Brant A");
Dharmarajan et al. US 6,750,284 ("Dharmarajan");
Datta US 6,867,260 ("Datta B"); and
Brant US 6,916,882 ("Brant B").

All claims of the present application require the presence of a third compatibilizer component that is either:

- (i) cocrystallizable with the polypropylene component as in claim 1; or
- (ii) has the crystallinity defined in claim 31 (one of $T_m < 100^\circ \text{C}$, or a $\Delta H_f < 25 \text{ J/g}$, wherein said compatibilizer component has a narrow compositional distribution, such that $> 75 \text{ wt. \%}$ of the compatibilizer component may be isolated in a thermal fractionation, in 2 adjacent soluble fractions, where each fraction differs $< 20\%$ from the average weight present α -olefin of the total compatibilizer component); or
- (iii) a combination of these as in claim 32.

None of the cited references disclose a hetero phase polymeric composition having all three components:

Datta A teaches a third component that is merely another second polymer component (SPC); no compatibilizer is taught. TPOs are taught but the claimed three-component hetero phase polymeric composition is not disclosed.

Finerman discloses a polymer and rubber composition wherein the polymers are semicrystalline PP and a random PP modifier. No ethylene alpha-olefin modifier polymer is taught; the PP copolymer modifier does not have the claimed crystallizability; and the PP copolymer modifier is described as having a heat of fusion below 75 or below 65. A very low heat of fusion; e.g., below 25, is not taught. In any case, the three-component polymer composition of the invention is not taught.

Brant A and Brant B have distinct claims, but both have the same disclosure. Brant teaches a blend (not a hetero phase polymer composition) of a thermoplastic polymer derived from PP with an ethylene copolymer to improve workability, flexibility, and extensibility. Optional modifiers may be added and these are described as resins, rosins, plasticizers, etc. There is no teaching to provide a compatibilizer as presently claimed.

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Dharmarajan describes a membrane made from materials similar to the composition of Datta but, similarly, lacks the compatibilizer claimed herein. This is another FPC plus SPC patent, but directed to constructing membranes by including filler and processing oil. The present invention is not taught or suggested and the compatibilizer component is missing.

Datta B is still another FPC plus SPC patent with a crystallizable component dispersed in a crystalline polymer continuous phase, wherein the two polymer components contain PP of similar tacticity. The presence of *both* a compatibilizer and a modifier component is not disclosed.

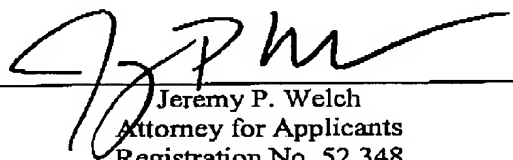
Each of the above references lacks at least one element of the independent claims and, therefore, is not anticipatory under 35 USC 102 (b) and/or (e). Accordingly, Applicants respectfully request reconsideration and allowance of the presently pending claims.

Applicants respectfully solicit a prompt notice of allowance. The Examiner is invited to telephone Amy Trexler (Attorney) at 281-834-5519 if there are any issues outstanding which have not been presented to the Examiner's satisfaction.

Respectfully submitted,

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Date


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